

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ANTHONY J. AWREY,

Plaintiff,

v.

Case Number 10-14738-BC
Honorable Thomas L. Ludington

ERIC R. GILBERTSON, MIKE WATSON, and
SAGINAW VALLEY STATE UNIVERSITY,

Defendants.

**ORDER DIRECTING PLAINTIFF TO FILE A RESPONSE TO DEFENDANTS’
MOTION TO DISMISS**

On November 29, 2010, Plaintiff Anthony J. Awrey filed a complaint against Defendants Eric Gilbertson, Mike Watson, and Saginaw Valley State University, contending that his constitutional right to due process was violated when Defendant’s suspended him from the University’s football team. Plaintiff’s father, Randy Awrey, was the head football coach at the University at the time of the suspension. He has filed a similar suit against the University. *See Awrey v. Gilbertson*, No. 10-14242-BC. Defendant Gilbertson is the University’s president and Defendant Watson is the University’s athletic director. Plaintiff is seeking “over \$1 million, compensatory damages, plus costs, attorney fees, interest, and punitive damages.” Pl.’s Compl. at 8.

On March 21, 2011, Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b). Defendants contend that Plaintiff’s complaint should be dismissed because he has alleged the deprivation of a recognized property, his property interest claim is barred by the statute of limitations, he has not alleged the deprivation of a recognized liberty interest, and that the

University and the individual defendants, to the extent they have been sued in their official capacities, cannot be liable as “persons” under 42 U.S.C. § 1983. In accordance with the Eastern District of Michigan Local Rules, Defendants sought concurrence in their motion to dismiss but did not receive it. E.D. Mich. L.R. 7.1(a).

Pursuant to the Court’s local rules, a party opposing a motion *must* file a written response, including a brief and supporting evidence then available. E.D. Mich. L.R. 7.1(c)(1). The response in opposition to a dispositive motion must be filed within twenty-one days after service of the motion. Defendants’ motion was served on March 21, 2011, which means the response in opposition was due no later than April 14, 2011. *See id.*, E.D. Mich. L.R. Appendix ECF R. 15(b); Fed. R. Civ. P. 6(d). As of April 15, 2011, no response had been received. As a result, Plaintiff will be directed to file a response if he continues to oppose the relief sought in Defendants’ motion.

Accordingly, it is **ORDERED** that Plaintiff is **DIRECTED** to file a response to Defendant’s motion for judgment on the pleadings [Dkt. # 5] on or before **May 2, 2011**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 18, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 18, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS